

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SCOTT C. SMITH,

Plaintiff,

v.

LT. GREY, *et al*,

Defendants.

Case No. C07-5108FDB-KLS

ORDER DENYING PLAINTIFF'S  
MOTION (DKT. #6), GRANTING  
PLAINTIFF'S APPLICATION TO  
PROCEED *IN FORMA PAUPERIS*  
AND DIRECTING  
INSTITUTION TO CALCULATE,  
COLLECT, AND FORWARD  
PAYMENTS

This matter comes before the Court on plaintiff's filing of an application to proceed *in forma pauperis* (Dkt. #1, #4 and #5) and an *ex parte* motion to pay filing fee (Dkt. #6). The Court, having reviewed plaintiff's application and motion, does hereby find and ORDER as follows:

In his motion, plaintiff seeks to have the Court order that the entire \$350.00 filing fee be paid from his personal prison savings account, rather than from his spendable account. He states that denial of such request will prejudice him, because funds deducted from his spendable account for the purpose of paying the filing fee are "taxed an additional 75%," and thus would result in an equivalent cost to him of about \$1,400.00. Plaintiff, however, has made no showing that such a tax is imposed by prison authorities in general or will be imposed on him specifically in this case. Further, as set forth below, the Court merely requires that the \$350.00 filing fee be deducted, and no more.

1 In addition, to the extent that plaintiff desires to have the amount of the filing fee deducted from his  
2 personal savings, as opposed to spendable, account, this is a matter to be taken up with the appropriate  
3 prison authorities. For example, RCW 72.09.111(3) makes funds contained in a personal savings account  
4 available at the time of the inmate's "release from confinement, unless the secretary determines that an  
5 emergency exists for the inmate." Plaintiff has not shown he has made any such request, which then was  
6 denied improperly, or that an emergency exists. No showing has been made, furthermore, that filing of a  
7 civil complaint constitutes an "emergency" as contemplated by RCW 72.09.111. Accordingly, plaintiff's  
8 *ex parte* motion to pay filing fee (Dkt. #6) hereby is **DENIED**.

9 With respect to plaintiff's application to proceed *in forma pauperis* itself, that application indicates  
10 he is unable to afford the Court's filing fee or give security therefor. Accordingly, plaintiff's application to  
11 proceed as a pauper is **GRANTED**. **As set forth below, an initial partial filing fee will be collected,**  
12 **and plaintiff is required to make monthly payments of 20 percent of the preceding months income**  
13 **credited to his/her account until the full amount of the filing fee is satisfied.**

14 Pursuant to 28 U.S.C. § 1915 and plaintiff's approved application to proceed *in forma pauperis*,  
15 the agency having custody of the above named plaintiff is directed to calculate an initial partial filing fee  
16 equal to 20 percent of greater of – the average monthly deposits to the prisoner's account or the average  
17 monthly balance in the prisoner's account for the 6-month period immediately preceding the date of this  
18 Order. The initial partial filing fee should be forwarded to the Clerk as soon as practicable.

19 Subsequently, if the prisoner's account exceeds \$10.00, each month the agency is directed to  
20 collect and forward payments equal to 20 percent of the prisoner's preceding month's income credited to  
21 the prisoner's account. In the event that the monthly payment would reduce the prisoner's account below  
22 \$10.00, the agency should collect and forward only that amount which would reduce the prisoner's  
23 account to the \$10.00 level. Please note that this \$10.00 limit does not apply to the initial partial filing fee  
24 described above. Finally, the monthly payments should be collected and forwarded to the Court until the  
25 entire filing fee (\$350.00) for this matter has been paid.

26 The Clerk is directed to send plaintiff a copy of this Order and the General Order, and a copy of  
27 this Order along with a copy of plaintiff's Acknowledgement and Authorization portion of the IFP  
28 application to the attention of the inmate account manager (IFP account manager at the Department of

1 Corrections).

2 DATED this 13th day of April, 2007.

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6 Karen L. Strombom  
7 United States Magistrate Judge  
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